

Southern Telegraph Office, corner of Nassau and Beaver-sts.

LIGHT ON THE CLAYTON AND BULWER TREATY.

Unpublished Paper by Secretary Clayton. Special Dispatch to the N. Y. Tribune.

WASHINGTON, Tuesday, Jan. 4, 1853.

The President to-day sent a Message to the Senate covering a paper drawn up by Mr. Clayton while Secretary of State containing certain admissions respecting the Mosquito Territory, and the relation of England thereto. Several Senators say that had this been known they would never have sanctioned the Clayton and Bulwer Treaty.

Mr. King Wrote—Buchanan at Washington—Senator Douglas.

Special Dispatch to the N. Y. Tribune. WASHINGTON, Tuesday Evening, Jan. 4, 1853.

Steamer Fulton has arrived in this city.

Mr. King is worse, and his friends now advise against his going to Havana, especially on account of the small pox there raging. Mr. King has not, however, yet determined to forego his intention of embarking for that port.

Mr. Buchanan is here on a visit to Mr. King.

The Illinois Legislature, now in session, is expected to reflect Senator Douglas this week.

From Washington.

Special Dispatch to the N. Y. Tribune. WASHINGTON, Tuesday, Jan. 4, 1853.

Mr. Badger is nominated for the vacant Judgeship of the Supreme Court. It is believed by some that he will be confirmed, but I see no reason for thinking so.

The following appointments have been made by Mr. Corwin: Wm. Miller, Inspector of Harbors, and S. S. Ward, of boilers, at New London; Nathaniel Nash, of Harbors, and Garret B. Davis, of Harbors, at Norfolk. Salary \$300 each.

The Maine Case.

Special Dispatch to the N. Y. Tribune. WASHINGTON, Tuesday, Jan. 4, 1853.

Mr. Crittenden has decided not to appear in the Maine extradition case. It has been argued *ex parte* in behalf of Maine by Messrs. Brady and Busted.

U. S. Supreme Court—The Maine Extradition Case.

WASHINGTON, Tuesday, Jan. 4, 1853.

In the Supreme Court, this morning, the Maine Extradition case was again called up.

Attorney General Crittenden stated that he had examined the law applicable to the case, and had come to the conclusion that he was not in favor of it, considering that the duty of the Executive only commenced when the criminality of the accused was legally established and the writ issued.

Mr. Brady appeared for Maine, and on counsel appearing for the defense, he asked the advice of the Court what course to pursue.

Chief Justice Taney said the Court would leave it to the discretion of counsel to take such course as they deemed proper.

Mr. Busted said that, in order that the Court might have the case fully before them, in the absence of counsel for the defense, he would put the Court in possession of all the arguments which had been advanced on the opposite side, which he did, and then proceeded with his argument for Maine.

Mr. Brady followed, concluding the case for Maine. The following were the main points submitted by him: That the Maine Extradition Treaty had prescribed the rule of evidence, and that the Act of 1848 which purported to carry out the conditions of the Treaty had enlarged the rule of evidence so as to make less evidence necessary for the purpose of extradition than the Treaty required.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

Mr. Brady contended that Congress had no power to enlarge the rule of evidence by any act of Congress beyond what was in the Treaty, but that Congress had no power to give up an American citizen to any foreign power at all, except by virtue of the Treaty, and that beyond the terms of the Treaty could not be enacted by Congress—that the Commissioner had no authority to extradite a citizen, and that the act of the Commissioner was null and void, and that the Treaty required that the accused should be given up as a fugitive. The Treaty required that he should be a Judge or Magistrate, and at the time the Treaty was ratified a Commissioner had no magisterial power; but afterward the law of 1848 authorized the Courts to appoint Commissioners for the purpose of executing the Treaty. This gentleman, Mr. Brady, was not a Commissioner for that purpose, but only a general Commissioner—that, therefore, if the Court should decide that the Treaty was the law, the writ would be issued, and that the accused would be given up as a fugitive.

NEW-YORK TRIBUNE.

NEW-YORK, WEDNESDAY, JAN. 5, 1853.

For California.

We shall issue THIS MORNING *The Tribune for California, Oregon and the Sandwich Islands.* It will contain a summary of all the Latest Foreign and Domestic News since the sailing of the last steamer; Money and Market Reports, Marriages, Deaths, &c.

Single copies in wrappers, ready for mailing, can be had at the Desk This Morning. Price 5 cents.

SEE THIRD PAGE.

CONGRESS.—The Senate adopted a resolution to continue the employment of a clerk to the President of the Senate; also a resolution calling for the report of the Board of officers appointed to examine the various projects for an enlarged Canal at the Falls of the Ohio. Mr. Cass introduced resolutions in regard to European Colonization on this Continent, which is remarked upon elsewhere. A bill appropriating \$19,500 to discharge the judgment obtained against Col. Fremont in England, for liabilities incurred in California, while acting in a military capacity in the service of the U. S., was passed. A bill granting pensions to the widows of the soldiers of the War of 1812, was also passed. Mr. Hale's resolution calling for information as to the conduct of Com. Morgan while in the Mediterranean, was taken up and discussed at some length by Messrs. Hale, Shields, Macon and others.

The House took up the Military Academy bill in Committee of the Whole, and Mr. Polk made a speech on the subject of Cuba and in reply to Mr. Venable. He seemed to think that Mr. Cass and Mr. Venable occupied the same ground, but was at a loss to decide whether Gen. C. had turned fire-eater or Mr. V. had been metamorphosed into an old fogey. He pitched into the Administration generally and particularly. He did not like the Foreign policy of Mr. Fillmore at all, and was quite sure that American Ministers are not respected abroad. Possibly Mr. P. speaks from experience on this subject. He was not at all pleased at the idea of Gen. Scott being made Lieut. General, and informed the world that that distinguished officer had disgraced himself in different ways. Mr. Brooks and Mr. Chandler defended the Administration and Gen. Scott. Mr. Carter opposed the Lieut. General project, and Mr. Gorman favored it—when the committee rose and the House passed the Military Academy bill and adjourned.

THE AWFUL MURDER OF TWO CHILDREN IN BERGEN CO., N. J.—New-Jersey, is fully corroborated by the arrest and confession of the murderer, as published in another column.

THE CALORIC SHIP ERICSSON WENT DOWN THE BAY YESTERDAY on a trial trip. She made about twelve miles an hour before the wind. In consequence of the heavy gale, the E., in common with several other vessels, anchored for the night off the Southwest Spit.

A paper was laid before the Senate yesterday, written by Mr. Clayton, then Secretary of State, which we are told contains some singular admissions on his part, contrary to the face of the Clayton and Bulwer treaty, but yet sufficient in some way to justify the apparent violation of that treaty by England. We think there must be some misconstruction in this matter, but at any rate far further information before joining in the condemnation of Gen. Taylor's Secretary.

THE MESSAGE OF GOV. SEYMOUR, on which we may offer some remarks to-morrow, will be found in another part of *The Tribune*. Nothing was done in the Legislature beyond the organization.

THE KALINE EXTRADITION CASE came up in the Supreme Court at Washington, yesterday, and the proceedings thereon will be found under the telegraphic head.

AN ACCOUNT OF THE LOSS OF THE SHIP AMULET, of Boston, and fifteen lives, will be found in another column.

OUR COMMON SCHOOLS.—The Annual School Report of HENRY S. RANDALL, Secretary of State, to the Legislature just assembled, is given at length in our columns to-day; and we solicit for it the earnest attention of every patriot. Just consider these facts:

We had by enumeration a year since 1,100,613 children above four years of age in our State a year ago, but we will throw off the odd 100,613, as well as the non-enumerated and the natural increase during 1852, and say there are 1,000,000 persons in the State who ought to attend School. Of these, the Secretary tells us that 242,311 (less than one-fourth) attended our Common Schools for six months or more during the year. He reports 238,132 children as not attending School at all during the year. Deduct 100,000 as aforesaid for children in private schools, (31,077) girls married when they should have been at school, children detained from school by sickness, &c., and there remain 168,132 receiving no sort of education, along with 200,473 who attended school less than two months in the year, 211,567 who attended more than two but less than four months, and 178,330 who attended more than four but less than six months. In other words, one-quarter of the children in the State are receiving a good education, one-half of the residue something better than none, and the remainder either absolutely none at all or so near it as to be a mere delusion and sham. Citizens of New-York! what do you think of this? Or, to come at once to the vital question, what will you do about it?

Mr. Randall tells us that the average duration of our Schools in 1851 was less than in 1850, while in that year they were less than in 1849. How long we are to go on in this downhill course, he does not give us the means of deciding.

When the FREE SCHOOL LAW was in operation, the then Secretary joyfully compared the returns of pupils in the schools with those of the preceding year, showing a very large increase—some Sixty Thousands. Mr. Randall makes no such comparison. Would he have failed to do so if there had been any considerable increase to exult over?

True, he tells us that the total expenditures for school purposes for the year ending with June last were \$2,249,814, being an increase of \$364,987 over those of the preceding year; but we believe very much of this is to be credited to the erection of costly school houses, &c., in cities and villages, where the schools are still

Free, and that very little of it pertains to the rural districts, where Free Schools are said to be unpopular. Yet, as the Golden Flood from California and Australia is increasing money values every where, it is evident that higher nominal wages must be paid to Teachers, or an inferior grade of Teachers accepted. Will anybody seriously advocate the latter alternative? We believe the \$364,987 more expended in the last fiscal year was actually less than the amount disbursed the year preceding.

The Secretary softly observes that our present School System, in its pecuniary aspects, "represents but a series of adjustments between conflicting interests," and rests on no principle at all. Such is the truth, done up in velvet. There is a principle which went to form the basis of our School System, and be consistently adhered to throughout; and this principle is fairly stated by Mr. Randall, as follows:

"The principle that Education is a concern of Government, that the Government may of right and is bound to support it, and that the property of the Country may be fairly taxed for that support, has been distinctly recognized by the people of this State from its earliest organization."

That is to say—the State, for its own high ends, has seen fit to establish a Common School System, planting a school-house in each district, and calling on Nokes the day-laborer, Syles the fisherman, Dilks who works on the Squire's farm at so much per month and inhabits a little cottage on one corner of it, to send their five or six children each to the district school. They comply with the invitation, drawing heavily on their scanty wages to fit their children with clothes and books to make a decent figure there; and at the close of the term they are waited on by a tax-collector with bills for the tuition of their children.

Now if they had established the school, for their own purposes, this would be but reasonable; but since the State has confessedly established it, her purpose, we insist that it is no such thing. If any citizen were to make a grand dinner party and invite all his friends and neighbors, and, after the repast, hand each man a bill for one-half or one-third the alleged cost of what he had eaten and drunk, everybody would consider that host a sneak. The vivand might be very good, and the price very moderate; but since he had got up the dinner for his own purposes, every one would say he ought to stand the expense. And we do not see how the 'Rate-bill' nuisance is any more justifiable than his bills for the dinner would be.

Now let us look at the matter in the light of expediency. Our State paid, during the last fiscal year, \$1,681,316 for Teachers' Wages alone, while the total of collections on Rate-bills was \$224,979, or barely more than one-eighth of the amount. For this paltry sum, we venture to say that not less than Sixty Thousand children, mainly those most needing State aid in obtaining an education, have been kept out of school, while at least One Hundred Thousand more, (all belonging to the poorer class) have been sent irregularly and less than half the time they otherwise would have been, because of the Rate-bill. When the Free School law took effect, its most gratifying result was not the large accession of children to the schools, but the increased steadiness of attendance. Poor parents, especially widows, who find the Rate-bill a heavy drain on their meager resources, yet who cannot submit to the degradation of asking exemption as paupers, will send one child this week and another next, keeping them at home alternately so as to lighten their rate-bills without exposing their poverty to comment. How miserable is the education thus obtained, the *off* week just about balancing the *on*, we need hardly insist.

The Secretary informs us that the substitution of a Mill-Tax for School purposes (as recommended by the late Secretary Morgan and ex-Commissioner S. S. Randall) in lieu of the present arbitrary impost of \$900,000, would suffice to rid us of the rate-bill entirely and make our Schools all free again. And this Mill-Tax would not be heavier (per cent.) than that required to raise the \$900,000 which was enacted. He admits that the State School Tax ought to be so levied that its product should increase with